IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO.4966 of 2002

DATE OF DECISION: January 8, 2007

Santosh and others

….Appellants

VERSUS

Ranjit Kumar

….

Respondent

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

PRESENT: Shri Akshay Bhan, Advocate for the appellants.
Shri M.L.Sarin, Senior Advocate with
Shri Vivek Sood, Advocate for the respondent.

Viney Mittal,J.

The defendants having concurrently lost before the two Courts below are in second appeal.

In a suit for specific performance filed by the plaintiff Ranjit Kumar with regard to the agreement dated August 15, 1983 as extended on April 18, 1984, it was claimed by him that the said agreement had been executed for the sale of the property in question for Rs.27,000/- and an earnest money of Rs.4,000/- had been paid. The sale deed was to be executed on or before November 30,1984. It was claimed by the plaintiff that the defendants had backed out from the aforesaid agreement and were not executing the sale deed. It was claimed by the plaintiff that he was always ready and willing to perform his part of the agreement.

The defendants did not deny the execution of the agreement dated August 15, 1983. However, they took up the plea that they were only the owners of 1/4th share in the total property and the said property had not been partitioned. Consequently, it was claimed that a suit for specific performance of the aforesaid agreement was not maintainable. Various other technical pleas were raised by the defendants. By way of subsequent amendment, it was also claimed that defendant No.2 Vinod Kumar had inherited the said property which was a Joint Hindu, ancestral and co-parcenary property, therefore, suit for specific performance qua the said property was not maintainable.

Both the Courts below have concurrently held that once the due execution of the agreement was admitted by the defendants, andit was also proved that the plaintiff was always ready and willing to perform his part of the agreement, then no further pleas raised by the defendants were sufficient to defeat the claim of the plaintiff for specific performance. It was also held by the Appellate Court that Vinod Kumar was not able to prove that he was the son of defendant Ram Parshad and as such it could not be held that he constituted any Joint Hindu Family with deceased Ram Parshad. On the basis of the aforesaid findings, the suit filed by the plaintiff was decreed by the trial Court and the appeal filed by the defendants was dismissed by the Appellate Court.

Even if it be taken that defendant Vinod Kumar is the son of the deceased Ram Parshad, still that would not improve the case for the defendants in any manner, inasmuch as, the agreement in question had been executed by Ram Parshad and after his death, the

present defendants have stepped into his shoes as his legal representatives. Consequently, they are bound by the agreement executed by Ram Ram Parshad which is clearly admitted by the defendant-appellants to have been so executed by him. Both the Courts below have also held that the plaintiff Ranjit Kumar was always ready and willing to perform his part of the agreement.

In view of the aforesaid findings of fact, I do not find that the defendants have any justification to challenge the judgments and decree of the two Courts below.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

January 8, 2007 (Viney Mittal)
KD Judge